

BS030353

U.S. Application No. 10/720,587 Examiner SIKRI, Art Unit 2109
Response to February 9, 2007 Office Action

REMARKS

In response to the Office Action dated February 9, 2007, the Assignee respectfully requests reconsideration based on the above amendments and on the following remarks. The Assignee respectfully submits that the pending claims distinguish over the cited documents to *Kato* and to *Almgren*.

Claims 1-20 are pending in this application, with claims 16-20 being newly added.

The United States Patent and Trademark Office (the "Office") objected to the title. The Office also rejected claims 1-15 under 35 U.S.C. § 103 (a) as being obvious over PCT International Application WO 00/41426 to Almgren, *et al.* in view of U.S. Patent Application Publication 2002/0112060 to Kato.

The Assignee shows, however, that the pending claims cannot be obvious. The pending claims recite, or incorporate, features that are not disclosed by the combined teaching of *Kato* and *Almgren*. The Assignee thus respectfully requests removal of the § 103 (a) rejection.

Objection to Title

The Office objected to the title. The title has been amended to "Methods, Systems, and Products for Providing Communications Services Amongst Multiple Providers."

Rejection of Claims 1-12

The Office rejected claims 1-15 under 35 U.S.C. § 103 (a) as being obvious over PCT International Application WO 00/41426 to Almgren, *et al.* in view of U.S. Patent Application Publication 2002/0112060 to Kato. If the Office wishes to establish a *prima facie* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success;

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and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P.").

Claims 1-15 cannot be obvious. These claims recite, or incorporate, features that are not taught or suggested by the combined teaching of *Kato* and *Almgren*. All the independent claims, for example, recite "*ascertaining a best-value scenario of at least one of segmentation, dispersion, assemblage, and routing of electronic data to fulfill the request, the best-value scenario maximizing profitability for the service provider*" (emphasis added). *Kato* gathers "information about a path." U.S. Patent Application Publication 2002/0112060 to *Kato* (Aug. 15, 2002) at Abstract and at paragraphs [0002] and [0119] through [0123]. Examiner Sikri then alleges that *Kato*, when combined with *Almgren*, teaches the "best value" scenario recited in the pending claims. The Assignee must, very respectfully, disagree. As the following paragraph explains, when *Almgren* describes price, *Almgren* is solely describing the user's sensitivity to price. The proposed combination of *Kato* and *Almgren*, then, is entirely silent to "*ascertaining a best-value scenario ..., the best-value scenario maximizing profitability for the service provider.*"

Almgren provides an explanation. "In a typical cellular communication network, a user defines his or her service requirements to a bearer (i.e., a service provider). PCT International Application WO 00/41426 to *Almgren, et al.* at page 1, lines 8-10 (emphasis added). "In addition, the user may also specify a price parameter." *Id.* at page 1, lines 15-16 (emphasis added). "The user may also specify a price sensitivity level parameter for a desired service." *Id.* at page 6, lines 25-26. *Almgren* explains that "in a web browsing application, a user normally desires a high bit rate for which the user's sensitivity level to price is low." *Id.* at page 7, lines 1-2. "However, the user may tolerate a lower bit rate if the user's sensitivity to level to price is high." *Id.* at page 7, lines 3-4. At other locations *Almgren* explains that this "price sensitivity level parameter" describes the user's sensitivity to price, not the service provider's desire to maximize profit. See, e.g., *id.* at page 7, lines 25-27, at page 8, lines 3-5, and at page 8, lines 7-8. The proposed combination of *Kato* and *Almgren*, then, is entirely silent to "*ascertaining a best-value scenario ..., the best-value scenario maximizing profitability for the service provider.*"

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Moreover, claims 1-15 recite, or incorporate, additional distinguishing features. All the independent claims, for example, recite “*dynamically assessing in real-time an availability of i) a communications network operated by the service provider and ii) another communications network operated by another service provider*” (emphasis added). The proposed combination of *Kato* and *Almgren*, however, only assesses the service provider’s ability to fulfill the user’s service. That is, the combined teaching of *Kato* and *Almgren* only determines when one service provider can fulfill the user’s service. *Almgren*, for example, explains that “[i]f the service provider cannot ... achieve at least the user’s minimum acceptable service requirements, the bearer service has to be renegotiated, or in the case of an ongoing call, handed-over (i.e., to a different service provider) or dropped.” PCT International Application WO 00/41426 to *Almgren, et al.* at page 4, lines 1-4. When “the bearer is unable to offer a level of service that meets the user’s service requirements, an empty NSV is generated.” *Id.* at page 13, lines 17-22. “Accordingly, the user may have to ... [define] a level of service that the bearer is capable of satisfying, or the user may have to negotiate with another service provider.” *Id.* at page 13, lines 22-25 (emphasis added). “In the event the user is unable to negotiate an acceptable level of service with any service provider, the user may be blocked ... or dropped.” *Id.* at page 13, lines 25-27.

Claims 1-15, then, cannot be obvious. These claims recite, or incorporate, features that are not taught or suggested by the proposed combination of *Kato* and *Almgren*. The combined teaching of *Kato* and *Almgren* fails to teach or suggest “*ascertaining a best-value scenario ..., the best-value scenario maximizing profitability for the service provider.*” The combined teaching of *Kato* and *Almgren* also fails to teach or suggest “*dynamically assessing in real-time an availability of i) a communications network operated by the service provider and ii) another communications network operated by another service provider.*” Because *Kato* and *Almgren* are silent to at least all these features, one of ordinary skill in the art would not think that claims 1-15 are obvious. The Assignee thus respectfully requests removal of the § 103 (a) rejection of these claims.

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Dependent Claims

The dependent claims recite additional distinguishing features. Claims 2, 16, and 19, for example, recite *"interrogating to determine when the another service provider can provide the requested communications service."* Support for such features may be found at least at paragraphs [0025] through [0027] of the as-filed application. Claims 4, 17, and 20 recite *"subcontracting at least some of the requested communications service to the another service provider."* Support for such features may be found at least at paragraph [0025] of the as-filed application. Claims 5 and 18 recite *"receiving a response from the another service provider, the response including at least one of available network routing, available bandwidth, and pricing."* Support for such features may be found at least at paragraph [0029] of the as-filed application. Claim 11 recites *"sending a reservation to reserve a routing path."* Support for such features may be found at least at paragraph [0031] of the as-filed application. Because *Kato* and *Almgren* are silent to at least all these features, one of ordinary skill in the art would not think that the dependent claims are obvious. The Assignee thus respectfully requests removal of the § 103 (a) rejection of these claims.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or scott@scottzimmerman.com.

Respectfully submitted,



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